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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/808,535	03/25/2004	Ralph H. Schorr	114559	5923

25944 7590 10/05/2005

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EXAMINER
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JULES, FRANTZ F

ART UNIT	PAPER NUMBER
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3617

DATE MAILED: 10/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/808,535

Applicant(s)

SCHORR ET AL.

Examiner

Frantz F. Jules

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) 13, 14, 21 and 25 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12, 15-20 and 22-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 13, 14, 21 and 25 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 08/15/2005.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election with traverse of Figs. 1-10 in the reply filed on 08/15/2005 is acknowledged. The traversal is on the ground(s) that all of the claims 1-26 are generic. This is not found persuasive because claims 13-14, 21 and 25 are drawn to the specie of Figs 15-17.

The requirement is still deemed proper and is therefore made FINAL.

2. Claims 13-14, 21 and 25 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected specie, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 08/15/2005.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-2, 5-8, 17-18, 22-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Curtis et al (US 4,924,779) in view of Pitchford (US 5,806,435).

Curtis et al discloses a long travel, constant contact side bearing for use in a railway car truck, comprising a base having opposing side walls, a front wall, and a rear wall; a cup-shaped cap (57) having downwardly extending side walls, a front wall and a rear wall that surround the respective side walls, front wall and rear wall of the base in a

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telescoping fashion with a predetermined spatial gap therebetween; and at least one coil spring (68) provided within the base extending between the base and the cap, wherein the walls of the cap and base are configured so as to retain an overlap at the loaded static height state and allow at least 5/8" of spring travel length before parts of the cap and base abut each other and prevent further spring travel.

Curtis et al disclose all of the features as listed above but does not disclose a coil spring having a combined load rating of less than about 6,000 lb/in. The general concept of providing a coil spring having combined load rating of less than about 6,000 lb/in to a side bearing falls within the realm of common knowledge as obvious mechanical expediency and is well know in the art as illustrated by Pitchford which discloses the teaching of a coil spring having a combined load rating of less than about 6,000 lb/in, see col 1, lines 53-55, col 7, lines 30-33. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Curtis et al to include the use of a coil spring having combined load rating of less than about 6,000 lb/in in his advantageous constant contact side bearing as taught by Pitchford in order to reduce the error tolerance in placement of the side bearings as well as the stress level in the spring thereby increasing the service life of the bearing.

#### Claims 2, 23-24

Regarding using a spatial gap in the longitudinal direction between 0.006" to 0.046" as recited in claims 2, 23-24, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Curtis et al to include the use of a spatial gap in the longitudinal direction between 0.006" to 0.046" in his advantageous system, as gap

sizing is a common and everyday occurrence throughout the constant bearing design art and the specific use of a spatial gap in the longitudinal direction between 0.006" to 0.046" would have been an obvious matter of design preference depending upon such factors as the loading imposed on the bearing, the yield strength of the constant bearing material; the ordinarily skilled artisan choosing the best stress profile corresponding to a particular loading imposed on the constant side bearing which would most optimize the cost and performance of the device for a particular application at hand, based upon the above noted common design criteria.

5. Claims 3-4, 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Curtis et al (US 4,924,779) and Pitchford (US 5,806,435), and further in view of Neuman (US 3,748,001).

#### Claims 3 and 19

Curtis et al teach all the limitations of claims 3 and 19 except for a cap including a substantially flat top surface that mates with each of the front, rear and side walls of the cap through coped surfaces that reduce gouging on railway car body contact surfaces during use. The general concept of providing a cap including a substantially flat top surface that mates with each of the front, rear and side walls of the cap through coped surfaces that reduce gouging on railway car body contact surfaces during use is well known in the art as illustrated Neuman which discloses the teaching of a cap (36) including a substantially flat top surface that mates with each of the front, rear and side walls of the cap through coped surfaces that reduce gouging on railway car body contact surfaces during use. It would have been obvious to one of ordinary skill in the

art at the time of the invention to modify Custis et al to include the use of "a cap including a substantially flat top surface that mates with each of the front, rear and side walls of the cap through coped surfaces that reduce gouging on railway car body contact surfaces during use" in his advantageous side braring as taught by Neuman et al in order to prevent failure of the side bearing during rocking of the car body.

#### Claim 4

Regarding using a flatness to within about 0.010" concave and 0.030" convex in the top surface as recited in claim 4, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Curtis et al and Neuman to include the use of a flatness to within about 0.010" concave and 0.030" convex in the top surface in his advantageous system, as bearing cap sizing is a common and everyday occurrence throughout the constant bearing design art and the specific use of a flatness to within about 0.010" concave and 0.030" convex in the top surface would have been an obvious matter of design preference depending upon such factors as the loading imposed on the bearing, the yield strength of the constant bearing material, the amount of rocking and rolling allowed for the car body; the ordinarily skilled artisan choosing the best stress profile corresponding to a particular loading imposed on the constant side bearing which would most optimize the cost and performance of the device for a particular application at hand, based upon the above noted common design criteria.

6. Claims 9-12, 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Curtis et al (US 4,924,779) and Pitchford (US 5,806,435), and further in view of Hassenauer (US 3,735,711).

Curtis et al and Pitchford teach all the limitations of claims 9-12 and 20 except for a complementary keying features located substantially on an exterior of the base and interior of the cap in a diagonal manner. The general concept of providing a complementary keying features located substantially on an exterior of the base and interior of the cap of a side bearing is well known in the art as illustrated by Hassenauer which discloses the teaching of a complementary keying features (23-28, 28) located substantially on an exterior of the base and interior of the cap. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Curtis et al and Pitchford to include the use of a complementary keying features located substantially on an exterior of the base and interior of the cap in a diagonal manner in his advantageous side bearing as taught by Curtis et al in order to attenuate or lessen rocking of the car body on the truck thereby reducing failure.

7. Claims 15-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Curtis et al (US 4,924,779) and Pitchford (US 5,806,435), as applied to claim 1 and further in view of Schorr (US 6,644,214).

Curtis et al and Pitchford teach all the limitations of claims 15-16 except for a constant side bearing comprising two or more springs provided within the base each having a different diameter and spring load rating. The general concept of providing two or more springs provided within the base each having a different diameter and spring load rating to a side bearing is well known in the art as illustrated by Schorr which discloses the teaching two or more springs provided within the base each having a different diameter and spring load rating to a side bearing. It would have been obvious to one of ordinary

skill in the art at the time of the invention to modify Curtis et al and Pitchford to include the use of two or more springs provided within the base each having a different diameter and spring load rating in his advantageous side bearing as taught by Schoor in order to increase the loading capability of the side bearing.

***Conclusion***

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frantz F. Jules whose telephone number is (703) 272-6681. The examiner can normally be reached on Monday-Thursday and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph S. Morano can be reached on (703) 272-6684. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Frantz F. Jules  
Primary Examiner  
Art Unit 3617

**FRANTZ F. JULES  
PRIMARY EXAMINER**

A handwritten signature in black ink, appearing to read 'Frantz F. Jules', is written over a horizontal line.



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FFJ

September 26, 2005